

**PUBLIC PROTECTION CABINET**  
**Department of Insurance**  
**Division of Health, Life Insurance and Managed Care**  
**(Amendment)**

**806 KAR 17:350. Guaranteed Acceptance Program (GAP) reporting requirements.**

RELATES TO: KRS 304.2-100, 304.17B-001, 304.17B-021(2), 304.17B-023

STATUTORY AUTHORITY: KRS 304.2-110(1), ~~[304.17B-031(1)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the commissioner ~~[executive director]~~ may promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010. KRS 304.17B-023 establishes reporting requirements for the Guaranteed Acceptance Program. This administrative regulation prescribes the form and the time schedule for submitting reports to the Office of Health and Data Analytics within the Cabinet for Health and Family Services ~~[office]~~ for each calendar year.

Section 1. Definitions. (1) ~~["Office" is defined in KRS 304.1-050(2).~~

~~(2)] "Earned premium" is defined by [in] KRS 304.17B-001(8).~~

~~(2) [(3)] "Guaranteed Acceptance Program" or "GAP" is defined by [in] KRS 304.17B-001(11).~~

~~(3) [(4)] "Guaranteed Acceptance Program Electronic Report Format-A" or HIPMC-GAPERF-A-1 means [a three and five tenths (3.5) inch diskette in] a Microsoft Excel spreadsheet formatted document [format] with written procedural instructions for reporting annual data pertaining to insurer premiums and GAP individuals.~~

~~(4) [(5)] "Guaranteed Acceptance Program Electronic Report Format-M" or HIPMC-GAPERF-M-1 means [a three and five tenths (3.5) inch diskette in] a Microsoft Excel spreadsheet formatted document [format] with written procedural instructions for reporting monthly data pertaining to insurer premiums and GAP individuals.~~

~~(5) [(6)] "Guaranteed Acceptance Program participating insurer" is defined by [in] KRS 304.17B-001(12).~~

~~(6) [(7)] "Health benefit plan" is defined by [in] KRS 304.17A-005(22).~~

~~(7) [(8)] "Insurer" is defined by [in] KRS 304.17A-005(29) ~~[304.17A-005(27)]~~.~~

~~(8) ["Office" is defined by KRS 304.17B-001(24)]~~

~~(9) "Supporting Insurer" is defined by [in] KRS 304.17B-001(28) [(27)].~~

Section 2. GAP Participating Insurer's Monthly Report. A GAP participating insurer shall submit a OHDA-GAPERF-M-1, 07/21 ~~[HIPMC-GAPERF-M-1 (04/01)]~~, incorporated by reference in this administrative regulation, to the office within thirty (30) calendar days after the end of each calendar month.

Section 3. Supporting Insurer's and Stop-Loss Carrier's Quarterly Reports. A supporting insurer and stop-loss carrier shall submit a OHDA-GAPQ-2 ~~[HIPMC-GAPQR-2 (04/01)]~~, incorporated by reference in this administrative regulation, to the office within thirty (30) calendar days after the end of each calendar quarter.

Section 4. GAP Participating Insurer's Annual Reports. A GAP participating insurer shall submit a OHDA-HIPMC-GAPERF-A-1 ~~[HIPMC-GAPERF-A-1 (12/00)]~~, incorporated by refer-

ence in this administrative regulation, to the office within forty-five (45) calendar days after the end of each calendar year.

Section 5. Certification. A GAP participating insurer shall complete and attach a OHDA-GAPC-1 [~~HIPMC-GAPC-1~~], incorporated by reference in this administrative regulation, to the following reports, when submitted to the office:

- (1) OHDA-GAPERF-M-1 [~~HIPMC-GAPERF-M-1 (04/01)~~]; and
- (2) OHDA-GAPERF-A-1 [~~HIPMC-GAPERF-A-1 (12/00)~~].

Section 6. Annual Premium Verification. (1) After the end of a calendar year, the office may request in writing that a supporting insurer verify the amount of premiums reported by the insurer for that calendar year.

(2) If a premium verification is requested pursuant to subsection (1) of this section, a supporting insurer shall submit the following documentation:

(a)1. Confirmation that the reported health benefit plan or stop-loss premium amounts are correct; or

2. Corrections of reported health benefit plan or stop-loss premium amounts; and

(b) A OHDA-GAPAFF-1, 07/21 [~~HIPMC-GAPAFF-1 (06/04)~~], incorporated by reference into this administrative regulation.

Section 7. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) Guaranteed Acceptance Program Affidavit, OHDA-GAPAFF-1, 07/21 [~~HIPMC-GAPAFF-1 (06/01)~~];

(b) Guaranteed Acceptance Program (GAP) Data Certification Form, OHDA-GAPC-1, 07/21 [~~HIPMC-GAPC-1 (12/00)~~];

(c) Guaranteed Acceptance Program Electronic Report Format - Annual for GAP Participating Insurers, OHDA-GAPERF-A-1, 07/21 [~~HIPMC-GAPERF-A-1 (12/00)~~];

(d) Guaranteed Acceptance Program Electronic Report Format - Monthly for GAP Participating Insurers, OHDA-GAPERF-M-1, 07/21 [~~HIPMC-GAPERF-M-1 (04/01)~~]; and

(e) Supporting Insurer's and Stop-Loss Carrier's Quarterly Report, HIPMC-GAPQR-2, 04/01 [~~(04/01)~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department [Office] of Insurance, The Mayo-Underwood Building, 500 Mero Street [~~215 West Main Street~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's website at <http://insurance.ky.gov>. [~~Forms may also be obtained on the office's Internet Web site at <http://doi.ppr.ky.gov/kentucky/>~~]

SHARON P. CLARK, Commissioner

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: July 8, 2021

FILED WITH LRC: July 9, 2021 at 1:19 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 AM on September 21st, 2021 at 500 Mero Street, Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity

to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on September 30th, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Abigail Gall, Executive Administrative Secretary, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email [abigail.gall@ky.gov](mailto:abigail.gall@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Abigail Gall

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the form and the time schedule for submitting reports to the Department for each calendar year.

(b) The necessity of this administrative regulation: KRS 304.2-110(1) provides that the Commissioner may promulgate administrative regulations necessary or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17B-023 establishes reporting requirements for the Guaranteed Acceptance Program. This administrative regulation prescribes the form and the time schedule for submitting reports to the Department for each calendar year.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110(1) provides that the Commissioner may promulgate administrative regulations necessary or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17B-023 establishes reporting requirements for the Guaranteed Acceptance Program. This administrative regulation prescribes the form and the time schedule for submitting reports to the Department for each calendar year.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 304.2-110(1) provides that the Commissioner may promulgate administrative regulations necessary or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17B-023 establishes reporting requirements for the Guaranteed Acceptance Program. This administrative regulation prescribes the form and the time schedule for submitting reports to the Department for each calendar year.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendments to this administrative regulation are technical in nature and ensure the drafting requirements set forth in Chapter 13A are met.

(b) The necessity of the amendment to this administrative regulation: These amendments are necessary to comply with 304.17B-023, as well as KRS Chapter 13A.

(c) How the amendment conforms to the content of the authorizing statutes: KRS Chapter 13A requires specific drafting requirements for administrative regulation, and these amendments adhere to those requirements.

(d) How the amendment will assist in the effective administration of the statutes: The amendments concerning drafting requirements of Chapter 13A are to ensure readability and efficacy of administrative regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect

two (3) GAP participating insurers, and one hundred fifty (150) supporting insurers in the state of Kentucky.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Insurers that follow under this regulation will need to utilize the newly incorporated forms to adhere to the processes set forth in this administrative regulations and relative statutes. This administrative regulation requires Guaranteed Acceptance Program (GAP) participating and supporting insurers to report specific information regarding its GAP participating insureds, information about GAP participating insurers, and information about supporting insurers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is no expected cost associated with this regulation.

(c) As a result of compliance, what benefits will accrue to the entities: The insurers participating in GAP will be in compliance with regulations and statutes prescribed by the state and will be allowed to participate in the program.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.

(b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established in this administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applied because this administrative regulation applies to all insurers issuing health insurance benefit plans in the state of Kentucky.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department as the implementer.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110(1), 304.17B-031(1)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. There is no fiscal impact known to be associated with this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is expected to be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is expected to be generated.

(c) How much will it cost to administer this program for the first year? No cost is expected.

(d) How much will it cost to administer this program for subsequent years? No cost is expected.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: